

## Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

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### LEGEND:

Taxpayer =

Company =

State X =

Industry =

Fiscal Year =

Year 1 =

Year 2 =

Employee 1 =

Employee 2 =

Date 1 =

Dear \_\_\_\_\_ :

This letter responds to a letter dated November 26, 2012, submitted on behalf of Taxpayer by its authorized representative. Taxpayer requests an extension of time to file an election under section 1092(b) of the Internal Revenue Code of 1986 and section 1.1092(b)-4T(f) of the Temporary Income Tax Regulations.

### **FACTS**

Taxpayer, a State X entity taxed under subchapter C of the Code, is the US parent of a group of companies. Company is \_\_\_\_\_ % indirectly owned by Taxpayer and is treated as a corporation under subchapter C of the Code for US federal income tax purposes. Company is also a controlled foreign corporation (CFC) of Taxpayer for purposes of subchapter F of the Code. Taxpayer and Company use an accrual method of accounting and a Fiscal Year for federal income tax purposes.

Taxpayer is not in the business of trading or dealing in financial positions. Rather, Taxpayer is in the business of Industry. In order to manage currency exposure, in Year 1, Company entered into several positions in various financial instruments that would be classified as mixed straddles under section 1092 of the Code. Taxpayer represents that Company completed a timely filed mixed straddle account election for this class of activities for Year 1 and intended to do so for Year 2.

In January of Year 2, Employee 1 (the person primarily responsible for preparation of the US federal income tax consolidated return) voluntarily ended her employment. Employee 1 did not leave instructions for her successor concerning mixed straddle account elections. Taxpayer had no other employees knowledgeable about section 1092, section 1256, or mixed straddle accounts. Taxpayer did not use any outside tax advisors for its mixed straddle account elections.

In August of Year 2, while reviewing and preparing the US consolidated tax return for Year 1, Employee 2 read the Income Tax Regulations under section 1092 of the Code to determine how to attach the mixed straddle account election to the tax return. When reading the regulations, Employee 2 determined that a mixed straddle account election has unique timing requirements and that the date to file a timely mixed straddle account election had passed. Taxpayer represents that immediately upon realization that there might be an issue with the election, it contacted a tax advisor and began the process of completing a request for a private letter ruling from the Commissioner that Taxpayer had reasonable cause for failing to make a timely election under section 1092(b)(2)(A)(i)(II) of the Code and section 1.1092(b)-4T(f)(1) of the Regulations. The request for private letter ruling was submitted before the end of the tax year for which the election was effective.

### **LAW AND ANALYSIS**

Section 1.1092(b)-4T(a) of the Regulations generally permits a taxpayer to elect (in accordance with paragraph (f) of section 1.1092(b)-4T) to establish one or more "mixed straddle accounts." Section 1.1092(b)-4T(b) defines a mixed straddle account to mean an account for determining gains and losses from all positions held as capital assets in a designated class of activities by the taxpayer at the time the taxpayer elects to establish a mixed straddle account.

Section 1.1092(b)-4T(f)(1) of the Regulations generally provides that, except as otherwise provided, the election to establish one or more mixed straddle accounts for a taxable year must be made by the due date (without regard to any extensions) of the taxpayer's income tax return for the immediately preceding taxable year (or part thereof). Section 1.1092(b)-4T(f)(1) further provides that if an election is made after the time specified above, the election will be permitted only if the Commissioner concludes that the taxpayer had reasonable cause for failing to make a timely election.

### **CONCLUSIONS**

Based on the facts and representations submitted, we conclude that Taxpayer has shown reasonable cause for failing to make a timely election under section 1.1092(b)-4T(f) of the Regulations. Therefore, we grant the Taxpayer's request for an extension of time to make the election under section 1.1092(b)-4T(a) for the taxable year ending on Date 1. This extension will expire 30 days from the date of this letter. The election must be made in the manner prescribed in section 1.1092(b)-4T(f)(2) and filed with the Director having audit jurisdiction over the Taxpayer's US federal income tax consolidated return.

Except as specifically ruled upon above, no opinion is expressed as to the tax treatment of the transaction under the provisions of any other sections of the Code and Regulations which may be applicable thereto, or the tax treatment of any conditions existing at the time of or effects resulting from the transaction. Specifically, no opinion is expressed concerning whether the positions designated by Taxpayer as the class of activities is a permissible designation under section 1.1092(b)-4T(b)(2) of the Regulations.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Robert B. Williams  
Senior Counsel, Branch 3  
Office of Associate Chief Counsel  
(Financial Institutions & Products)

Enclosures:

Copy of this letter

Copy for section 6110 purposes